United Nations A/C.3/67/L.4

General Assembly

Distr.: Limited
3 October 2012

Original: English

Sixty-seventh session
Third Committee
Agenda item 103
Crime prevention and criminal justice

Promoting efforts to eliminate violence against migrants, migrant workers and their families

Note by the Secretariat

By its resolution 2012/16 of 26 July 2012, the Economic and Social Council recommended to the General Assembly the adoption of the following draft resolution:

Promoting efforts to eliminate violence against migrants, migrant workers and their families

The General Assembly,

Recalling its resolution 66/172 of 19 December 2011, entitled "Protection of migrants",

Recognizing that violence against migrants, migrant workers and their families poses a serious challenge to Member States and requires multilateral cooperation among all countries for its eradication,

Recognizing also that the challenges include violence perpetrated by organized criminal groups, including violence motivated by racism,

Deeply concerned about acts of intolerance, discrimination and violence and credible threats of violence against migrants, migrant workers and their families,

Recognizing that impediments to accessing employment, vocational training, housing, schooling, health services and social services, as well as other services that, in accordance with national legislation, are intended for use by the public, contribute to the vulnerability of migrants,

Noting that the factors that drive people to seek to cross international borders are many and varied and that, while the majority may be motivated by economic factors, in some cases migrants may include vulnerable groups,

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Aware that, as criminals take advantage of migratory flows and attempt to circumvent border controls, migrants become more vulnerable to, inter alia, kidnapping, extortion, forced labour, sexual exploitation, physical assault, debt servitude and abandonment,

Concerned about the large numbers of migrants, especially women and children, who attempt to cross international borders without appropriate travel documents, which renders them highly vulnerable, and recognizing the obligation of Member States to treat migrants humanely, with full protection of their rights, regardless of their immigration status,

Bearing in mind the need for a focused and consistent criminal justice approach to crimes committed against migrants, in particular women and children, as a group that is especially vulnerable to crime and abuse,

Recognizing the importance of the principle of access to justice, and convinced that, without access to justice, basic human rights cannot be fully realized,

Reaffirming the importance of the Universal Declaration of Human Rights,[1] in which it is stated that everyone has the right to life, liberty and security of person, and that no one should be held in slavery or servitude or be subjected to cruel, inhuman or degrading treatment or punishment, and that everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind,

Reaffirming also that effective action to prevent and combat the smuggling of migrants by land, sea and air requires a comprehensive international approach,

Noting the obligations of Member States under international law, as applicable, to prevent crimes against migrants, to investigate such crimes and to punish perpetrators, and bearing in mind that not doing so impairs the enjoyment of the human rights and fundamental freedoms of victims of such crimes,

Stressing the need for additional cooperation among Member States and between Member States and private sector entities to counter transnational organized crime,

Stressing also the need to fully implement the United Nations Convention against Transnational Organized Crime,[2] the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime,[3] and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,[4] and to take appropriate measures to afford migrants effective protection against the types of violence that may be inflicted upon them, including protection from potential retaliation or intimidation for testifying as witnesses in criminal proceedings,

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[1] General Assembly resolution 217 A (III).

[2] United Nations, *Treaty Series*, vol. 2225, No. 39574.

[3] Ibid., vol. 2241, No. 39574.

[4] Ibid., vol. 2237, No. 39574.

Recalling its resolution 64/293 of 30 July 2010, entitled "United Nations Global Plan of Action to Combat Trafficking in Persons", and Commission on Crime Prevention and Criminal Justice resolution 20/3 of 15 April 2011, entitled "Implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons",[5] stressing the need for full and effective implementation of the Plan of Action, and expressing the view that it will, inter alia, enhance cooperation and better coordination of efforts to fight trafficking in persons and for full implementation of the Convention and the Trafficking in Persons Protocol,

Reaffirming that crimes against migrants, including trafficking in persons, continue to pose a serious challenge and require a concerted international assessment and response and genuine multilateral cooperation among countries of origin, transit and destination for their eradication,

Taking note with appreciation of the work of the United Nations Office on Drugs and Crime to highlight the vulnerability of smuggled migrants to violence, including the study entitled "Smuggling of migrants: a global review and annotated bibliography of recent publications", first published in 2010, and the discussion guide for the thematic discussion on violence against migrants, migrant workers and their families,[6]

Welcoming the renewed commitment made in the United Nations Millennium Declaration[7] to take measures to protect the human rights of migrants, migrant workers and their families, to eliminate acts of racism and xenophobia and to promote greater harmony and tolerance,

Recognizing the increasing need for more effective international information sharing, law enforcement cooperation and mutual legal assistance,

Determined to promote effective law enforcement and related measures to eliminate violence against migrants, migrant workers and their families,

1. *Strongly condemns* the continuing incidence of criminal acts against migrants, migrant workers and their families in all regions of the world, including criminal acts of violence motivated by racism, racial discrimination, xenophobia and related intolerance;

2. *Requests* Member States to ensure the humane treatment of all migrants, regardless of their immigration status, especially women and children, with full protection of their rights, and to take all appropriate measures with due regard for the safety and dignity of the person;

3. *Urges* Member States to adopt measures for preventing and addressing effectively cases of violence against migrants, migrant workers and their families, and to ensure that the victims of such crimes receive humane and respectful treatment from Member States, regardless of their immigration status;

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[5] See *Official Records of the Economic and Social Council, 2011, Supplement No. 10* (E/2011/30), chap. I, sect. D.

[6] E/CN.15/2012/5.

[7] See General Assembly resolution 55/2.

4. *Encourages* Member States that have not already done so to enact national legislation and take other appropriate measures to combat international smuggling of migrants, including legislative, judicial, regulatory and administrative measures, recognizing that crimes against migrants may endanger the lives of migrants or make them vulnerable to trafficking, kidnapping or other crimes and abuse by organized criminal groups, and to strengthen international cooperation to combat such crimes;

5. *Also encourages* Member States that have not already done so to enact national legislation and to take other appropriate measures to combat criminal acts of racism, discrimination, xenophobia and related intolerance, including steps to reduce the vulnerability of migrants to crime and to increase their engagement with host societies, consistent with national law;

6. *Reiterates* its call for those Member States that have not yet done so to consider acceding to the United Nations Convention against Transnational Organized Crime and the Protocols thereto,[8] and calls upon States parties to fully implement those treaties;

7. *Calls upon* Member States to institute measures, as appropriate, to strengthen the entire criminal justice process and to vigorously investigate and prosecute crimes against migrants, including trafficking in persons and other serious offences, especially crimes constituting violations of the human rights of migrants, giving special attention to assisting and protecting victims, in particular women and children;

8. *Emphasizes* the importance of protecting persons in vulnerable situations, and in that regard expresses its concern about the increase in the activities of transnational and national organized criminal entities and others who profit from crimes against migrants, especially women and children, without regard for dangerous and inhumane conditions and in flagrant violation of national laws and international law;

9. *Urges* Member States to fully use, where pertinent, international cooperation in their investigations and prosecution of crimes involving violence against migrants, migrant workers and their families, and encourages States parties to the Convention and the relevant Protocols thereto to avail themselves of the international cooperation framework of those instruments and all others to ensure that they have an adequate legal framework to allow for extradition, mutual legal assistance and international cooperation in relation to such crimes;

10. *Also urges* Member States to provide specialized training, as appropriate, for law enforcement, border control, immigration and other concerned officials to better equip them to identify and deal with issues related to violence against migrants, including in cooperation with non-governmental organizations and civil society;

11. *Invites* Member States to adopt concrete measures to prevent violence against migrants while in transit, to train public officials at ports of entry and in border areas to treat migrants and their families respectfully and in accordance with the law, and to prosecute, in conformity with applicable

[8] United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.

national and international law, violations of the rights of migrants and their families during such transit;

12. *Urges* Member States to continue exploring the link between migration, smuggling of migrants and trafficking in persons in order to further efforts towards protecting migrants from violence, discrimination, exploitation and abuse;

13. *Encourages* Member States to make available information about the potential risks of migration and the rights and duties of persons who migrate, educating them about their host societies, so as to enable migrants to make informed decisions and to reduce the likelihood that they will be victims of crime;

14. *Calls upon* Member States to take measures to ensure that victims of crime, including migrants, migrant workers and their families, have access to the justice system for violations of their rights, irrespective of their immigration status;

15. *Encourages* Member States to further strengthen their cooperation in protecting witnesses in cases of smuggling of migrants and trafficking in persons;

16. *Invites* Member States to take immediate steps to incorporate into national criminal justice strategies measures to prevent, prosecute and punish crimes involving violence against migrants, migrant workers and their families;

17. *Welcomes* the active role played by international and non-governmental organizations in combating violence against migrants;

18. *Urges* Member States to cooperate in international, regional and bilateral forums on the protection of migrants and on humane migration management.